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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,295	07/01/2003	Steven M. Shei	DKE 9008.2	5573
321	7590	07/27/2005		
SENNIGER POWERS LEAVITT AND ROEDEL ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102				
			EXAMINER PELHAM, JOSEPH MOORE	
			ART UNIT 3742	PAPER NUMBER

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/611,295

Applicant(s)

SHEI, STEVEN M.

Examiner

Joseph M. Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-82 and 84-110 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 52-73, 84 and 87-94 is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☒ Claim(s) 8, 12, 13, 22, 24-26, 32, 38, 50, 51, 96, 98, 99, 104, 107 and 108 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims rejected are 1-7,9-11,14-21,23,27-31,33-37,39-49,74-83,85,86,95,97,100-103,105,106,109 and 110.

Art Unit: 3742

The Examiner acknowledges Applicants' submission of the RCE filed 4/11/05. Claims 1-82 and 84-110 are now pending.

***Claim Rejections - 35 USC § 102***

Claims 1-7, 9-11, 14, 21, 23, 27-31, 33-37, 39-42, 46-49, 74-82, 85, 86, 95, 97, 100-103, 105, 106, 109, and 110 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. 6710308 (US'308).

Referring to Figs. 2-4, and col. 3, line 1, through col. 4, line 29, at least, US'308 discloses an oven 102 having a plurality of thermally isolated compartments 104, 105, independently controlled, broiling heat sources in each which emit radiation downward into the cooking vessels placed into the compartments, which are inherently "trays" since such are universally utilized in such ovens, where each compartment may be programmed for a given heating time, and convention heating means. The Examiner notes that the recited "duration of holding time," or the equivalently recited "time-base," for ovens with timer control means includes periods in which the heater is activated and deactivated, since maintenance of a set point temperature requires exactly such on-off power cycling (the "heating" and "non-heating" intervals recited in claim 4 for instance).

The "holding temperature," recited in claim 6, is just the set point temperature; the initial heater activation, followed by cyclic activation and deactivation, as recited in claims 11 and 39, is exactly the conventional manner in which an oven achieves and then maintains a set point temperature.

Because the oven of US'308 is controlled according to the oven chamber temperature, the initial cool-down period, as recited in claims 7, 37, and 49 at least, will occur inevitably when an item hotter than oven set point temperature is placed in the oven, since the oven temperature will itself rise as a consequence, deactivating the heater until oven temperature falls below set point.

Referring to claim 23, US'308 discloses ordinary baking and broiling modes, and hence uses ordinary 'calrod' type heaters, which comprise magnesium oxide as recited.

Referring to claim 27, since US'308 discloses a convection baking mode, the convection heating unit comprises dedicated heating elements, which are within the convection ducting arrangement and therefore inherently divided from the heating compartment by a panel member.

Referring to claims 5 and 35, the length of the heating interval of a heating cycle varies when the oven temperature undergoes substantive changes, during warm-up for example, or when the oven load is changed, the variation being inherently controlled by the oven control mechanism. The oven is inherently capable of programming according to the type of food placed therein, and "shoulder" are inherently provided on which to rest cooking racks.

***The Examiner notes that each heating compartment of US'308 is "adapted for receiving one tray," since each compartment is capable of receiving one tray; the claim limitation does not preclude more than one tray in each compartment***

Claims 1, 2, 27-30, 33, and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. 6011243 (US'243).

Art Unit: 3742

Referring to Fig. 1 and 4:49-5:6, US'243 discloses thermally isolated and independently controlled heating compartments receiving trays, with upper and lower heaters, and a timer. The claims do not require that the heaters stop when the timer setting has elapsed.

***Claim Rejections - 35 USC § 103***

Claims 15-17 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'308 in view of U.S. Pat. 4374319 (US'319).

The claims differ from US'308 only in calling for convection ducting system with a flow in an upward path from below to above trays in the oven compartments, regarding the details of which US'308 is silent.

Referring to Figs. 1-4 and col.4, lines 39-53, US'319 discloses a convection ducting system with a flow path from below to above trays in the oven compartment. It would have been obvious to adapt the convection system of US'319 to the oven compartments of US'308 since US'319 discloses such to efficiently heat food items in an oven. Moreover, the desirability of

Claims 18-20, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'308 in view of US'319, as applied to claims 15-17 and 43 above, and further in view of U.S. Pat. 4587946 (US'946).

The claims differ from the oven of US'308 in view of US'319 in calling for a reversible fan. US'946 discloses a reversible fan in a convection oven. It would have been obvious to adapt the reversible fan of US'946 to the oven of US'308 in view of US'319 to enhance heating uniformity.

***Allowable Subject Matter***

Claims 52-73, 84, and 87-94 are allowed.

Claims 8, 12, 13, 22, 24-26, 32, 38, 50, 51, 96, 98, 99, 104, 107, and 108 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 4/11/05 have been fully considered but they are not persuasive. The examiner, after reviewing the prior art, new and already cited, believes that certain of the subject matter indicated allowable should be rejected. It is noted specifically that the recitation of "pre-cooked" food is merely intended use, and imposes no structural limitations on the claimed heating device.

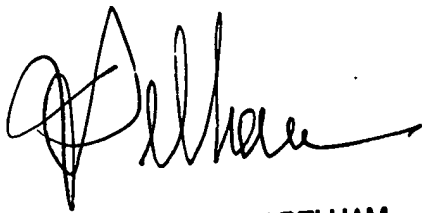
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

Art Unit: 3742

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/25/05

A handwritten signature in black ink, appearing to read 'J. Pelham', with a long horizontal stroke extending to the right.

**JOSEPH PELHAM  
PRIMARY EXAMINER**